IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SAMIR B. DHARIA AND	**§**	
MARLENE S. DHARIA	**§**	
Plaintiffs,	**§**	
	§	
v.	**§**	**Civil Action No. 4:12-cv-2992**
	§	
CHUBB LLOYDS INSURANCE	**§**	**JURY**
COMPANY OF TEXAS	**§**	
Defendant.	**§**	

DEFENDANT CHUBB LLOYDS INSURANCE COMPANY OF TEXAS'S NOTICE OF REMOVAL

Defendant Chubb Lloyds Insurance Company of Texas ("Chubb") files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 as follows:

I.
PROCEDURAL BACKGROUND

1. On August 12, 2012, Plaintiffs Samir and Marlene Dharia (collectively "Plaintiffs") filed an Original Petition and initiated an action against Chubb in the 400th Judicial District Court of Fort Bend County, Texas, bearing Cause No. 12-DCV-200656 ("the State Court Action").[1] There was a jury demand in the State Court Action.[2]

2. On September 7, 2012, Chubb was served with Plaintiffs' Original Petition and Citation in the State Court Action.[3]

3. Chubb filed its General Denial in the State Court Action on October 1, 2012.

4. This Notice of Removal is filed within the 30-day statutory time period for removal.[4]

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[1] Exhibit B.
[2] *Id.*
[3] Exhibit C and Exhibit D.
[4] 28 U.S.C. § 1446(b).

II.
NATURE OF SUIT

5. This lawsuit involves an insurance coverage dispute regarding alleged damage to Plaintiff's property located at 7 Cypress Ridge Lane, Sugar Land, Fort Bend County, Texas 77479, from a storm that allegedly occurred on or about March 22, 2012. Plaintiffs brought suit against Chubb, their homeowners' insurer, for breach of the insurance contract, violations of the Texas Insurance Code, violations of the Texas Deceptive Trade Practices Act, breach of the duty of good faith and fair dealing, and fraud on August 12, 2012.[5]

III.
BASIS FOR REMOVAL

6. This Court has original jurisdiction under 28 U.S.C. § 1332 over this civil action, and the action may be removed by Chubb pursuant to 28 U.S.C. § 1441(b), as it is a civil action between citizens of different states, and the amount in controversy exceeds the sum of $75,000, exclusive of interest and costs.

7. Plaintiffs were, at the time this action commenced, and still are citizens of the State of Texas. Plaintiffs' Original Petition states that Plaintiffs are residents of Texas.[6]

8. Chubb is an unincorporated association, and therefore its citizenship for purposes of determining diversity jurisdiction is determined solely by the citizenship of each of its members. *See Royal Ins. Co. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882 (5th Cir. 1993). Each and every member of the unincorporated association Chubb Lloyds Insurance Company of Texas is a citizen of either the State of New Jersey or the State of New York, and thus, none of the members of Chubb are citizens of the State of Texas. Chubb is therefore not a citizen of Texas.

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[5] Exhibit D at paragraphs VI. A through F.
[6] *Id.* at paragraph II.

9. Because Plaintiffs are citizens of Texas and Defendant Chubb is not, complete diversity of citizenship exists among the parties.

10. Although Plaintiffs' Original Petition is silent as to the amount of actual damages Plaintiffs seek in this action, as stated above in paragraph 5, this is an alleged insurance "bad faith" case in which Plaintiffs seek damages for Chubb's alleged wrongful handling and denial of Plaintiffs' claim. Specifically, Plaintiffs allege that "Defendant has denied at least a portion of the claims without an adequate investigation, even though the Policy provided coverage for losses such as those suffered by Plaintiffs."[7] Plaintiffs' "property" is their residence and is insured with Chubb for $1,608,000, as shown by the copy of the Chubb policy's declarations page attached as Exhibit E. In additional to seeking economic losses, Plaintiffs' Original Petition also seeks: unspecified amounts of direct and indirect consequential damages; mental anguish damages; treble economic and mental anguish damages; exemplary damages; statutory penalties; and attorneys' fees.

11. When a plaintiff's pleadings do not allege a specific amount of damages, the removing party defendant must only prove by a preponderance of the evidence that the amount in controversy exceeds $75,000.[8] Given the nature of Plaintiffs' claims against Chubb, the large amount of insurance applicable to it, and Plaintiffs' claims for substantial damages, the amount in controversy in this action exceeds $75,000, exclusive of interest and costs.[9]

12. Because the amount in controversy exceeds $75,000, this Court has subject matter jurisdiction under 28 U.S.C. § 1332, and this removal is proper.

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[7] Exhibit D at paragraph V.H..
[8] *See DeAguilar v. Boeing Co.*, 11 F.3d 55, 58 (5th Cir. 1993); *Chittick v. Farmers Ins. Exch.*, 844 F. Supp. 1153, 1155 (S.D. Tex. 1994).
[9] *See Chittick*, 844 F. Supp. at 1155-56.

13. Pursuant to 28 U.S.C. § 1446(a), Chubb has filed with this Notice of Removal a complete copy of the State Court's file, including copies of all process, pleadings, orders and the docket sheet in the State Court Action as identified on the Index of Matters Being Filed. Exhibit A.

14. Pursuant to 28 U.S.C. § 1446(d), Chubb will notify the clerk of the court in the State Court Action of this removal, and will give notice thereof to all adverse parties.

IV.
CONCLUSION

15. The basis for this removal and this Court's jurisdiction is diversity of citizenship. 28 U.S.C. § 1332. Plaintiffs are citizens of Texas and Defendant Chubb is not. The amount in controversy, based on the allegations in Plaintiffs' Original Petition and the evidence tendered by Chubb exceeds $75,000, exclusive of interest and costs. As such, this removal action is proper. On these grounds, Chubb hereby removes the referenced State Court Action to this Court.

16. WHEREFORE, Defendant Chubb Lloyds Insurance Company of Texas respectfully requests that the above-entitled action be removed from the 400th Judicial District Court of Fort Bend County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

MARTIN, DISIERE, JEFFERSON & WISDOM, L.L.P.

By: /s/ Christopher W. Martin

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been served to all counsel of record identified below by virtue of the court's electronic filing and notification system, and *via* facsimile on this the 5th day of October, 2012.

Via Facsimile: (210) 223-5007
Mr. Paul A. Smith, Jr.
Mr. Carlos E. Solis
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/s/ Christopher H. Avery
Christopher H. Avery